THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 27276 of 2005

Dated: 17-03-2006

Between:

P.Musalaiah

..... PETITIONER

AND

The District Collector,

Eluru, and another.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 27276 of 2005

O R D E R:

The petitioner is an elected Sarpanch of D.Muppavaram Grama Panchayat. He was served with a show cause notice dated 24-06-2005 issued by the first

respondent-District Collector, Eluru calling upon him to show cause as to why he should not be suspended for a period of three months. In the show cause notice, while referring to the proceedings of the Divisional Panchayat Officer, dated 09-05-2005, three charges were framed against the petitioner. The petitioner by letter dated 28-06-2005 while denying the allegations, made a specific request to the first respondent to furnish a copy of the report of Divisional Panchayat Officer, dated
09-05-2005 to enable him to explain the allegations made in the show cause notice effectively. However, without furnishing a copy of the said report of the Divisional Panchayat Officer, Kovvur, dated 09-05-2005, the order dated 18-10-2005 was passed by the first respondent suspending the petitioner for a period of three months, relying upon the very same report of the Divisional Panchayat Officer and concluding that all the three charges were proved. The said order dated 18-10-2005 is under challenge in this writ petition.

A preliminary objection has been raised by the learned counsel for the second respondent as well as the learned Government Pleader that against the impugned order dated 18-10-2005, an alternative remedy of appeal is available under 249(7) of the Andhra Pradesh Panchayat Raj Act, 1994 and therefore, the writ petition is not maintainable.

However, the learned counsel for the petitioner while placing reliance upon the decision of a Division Bench of this Court in ***D. Sathi Reddy v. Commissioner, Panchayat Raj,*** contended that the impugned order which was passed without furnishing a copy of the enquiry report is illegal and in violation of the principles of natural justice and therefore the non-exhaustion of the alternative remedy is not a bar.

I find force in the submission of the learned counsel for the petitioner. It is undoubtedly obligatory on the part of the respondents to supply a copy of the enquiry report to the petitioner since the show cause notice is apparently based on the said report. Hence, on that ground alone the impugned order is liable to be set aside.

Accordingly, the impugned order dated 18-10-2005 is set aside and the writ petition is disposed of with a direction to the first respondent to furnish a copy of the report of the Divisional Panchayat Officer, dated 09-05-2005 to the

petitioner and pass appropriate orders, after affording him an opportunity to submit his explanation, in accordance with law. No costs.

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G.ROHINI,J

Dated: 17-03-2006

Klp